

**UNITED STATES
PATENT AND TRADEMARK OFFICE**

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Patent Public Advisory Committee Quarterly Meeting

Plant Patents Update

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UNITED STATES
PATENT AND TRADEMARK OFFICE



Overview

- Plant Patent Review
- Plant Patent Administration
- Proposed Legislation

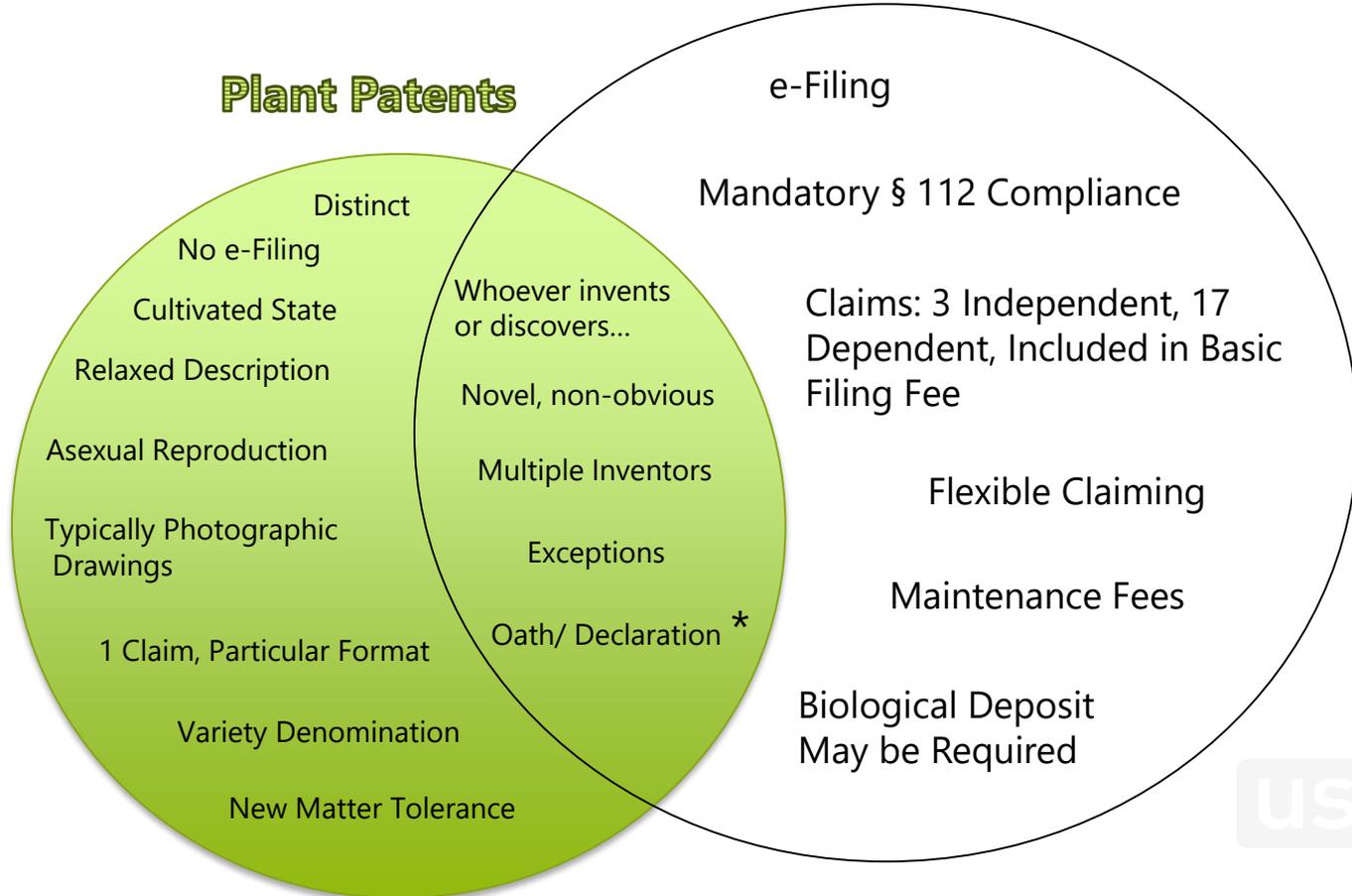
PLANT PATENT REVIEW

Plant Patents – 35 U.S.C. § 161

- “Whoever invents or discovers and *asexually* reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state may obtain a patent therefor, subject to the conditions and requirements of this title.”
- “The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.”

Utility Patents

Plant Patents



(12) **United States Plant Patent**
Barritt

(10) **Patent No.:** US PP24,210 P3
(45) **Date of Patent:** Feb. 4, 2014

(54) **APPLE TREE NAMED 'WA 38'**

(50) **Latin Name:** *Malus domestica*
Varietal Denomination: WA 38

(75) **Inventor:** Bruce H. Barritt, Okanagan Centre
(CA)

(73) **Assignee:** Washington State University Research
Foundation, Pullman, WA (US)

(*) **Notice:** Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 93 days.

(21) **Appl. No.:** 13/385,545

(22) **Filed:** Feb. 23, 2012

(65) **Prior Publication Data**

US 2013/0227750 P1 Aug. 29, 2013

(51) **Int. Cl.**
A01H 5/00 (2006.01)

(52) **U.S. Cl.**
USPC Plt/161

(58) **Field of Classification Search**
USPC Plt/161, 170
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

PP7,197 P * 3/1990 Luby et al. Plt/161

* cited by examiner

Primary Examiner — Howard Locker

(74) *Attorney, Agent, or Firm* — Morrison & Foerster LLP

(57) **ABSTRACT**

A new and distinctive variety of a *Malus domestica* apple tree,
named 'WA 38' that is distinguished by its intense and nearly
full color, internal indices that are different than its parents,
and its long common storage life.

4 Drawing Sheets

What is claimed:
1. A new and distinct apple tree variety named 'WA 38', as herein shown and described.

INTERNATIONAL PLANT IP

International Bodies with Plant IP Equities

- USPTO leads the U.S. UPOV delegation
- USPTO serves as technical expert on the ITPGRFA

UPOV



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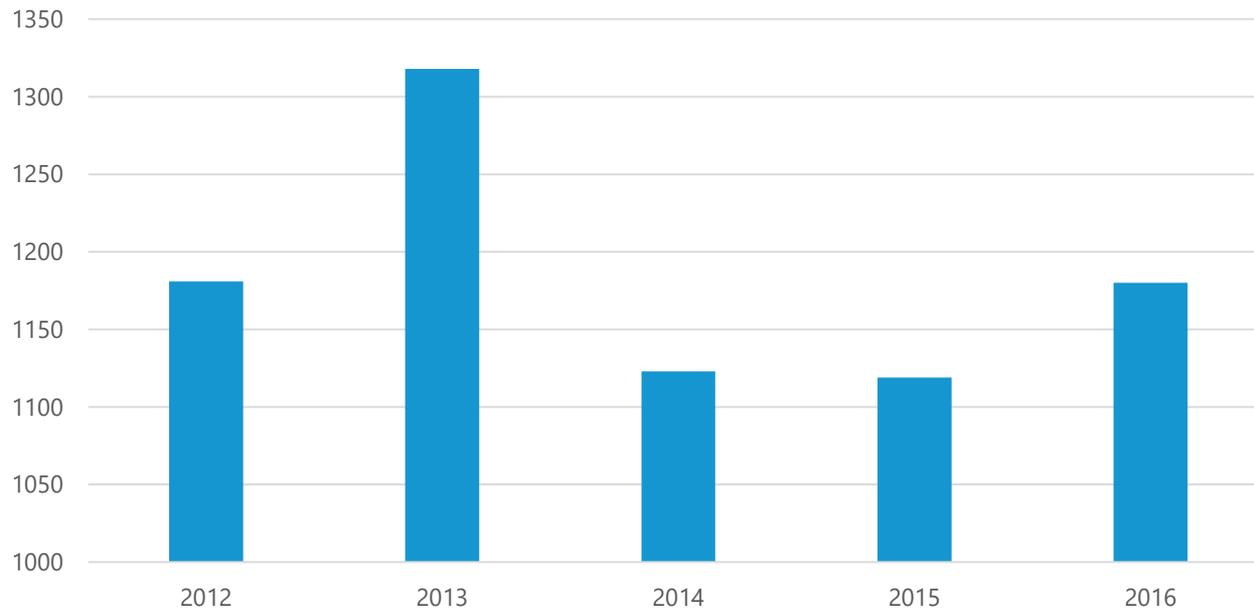
PLANT PATENT ADMINISTRATION



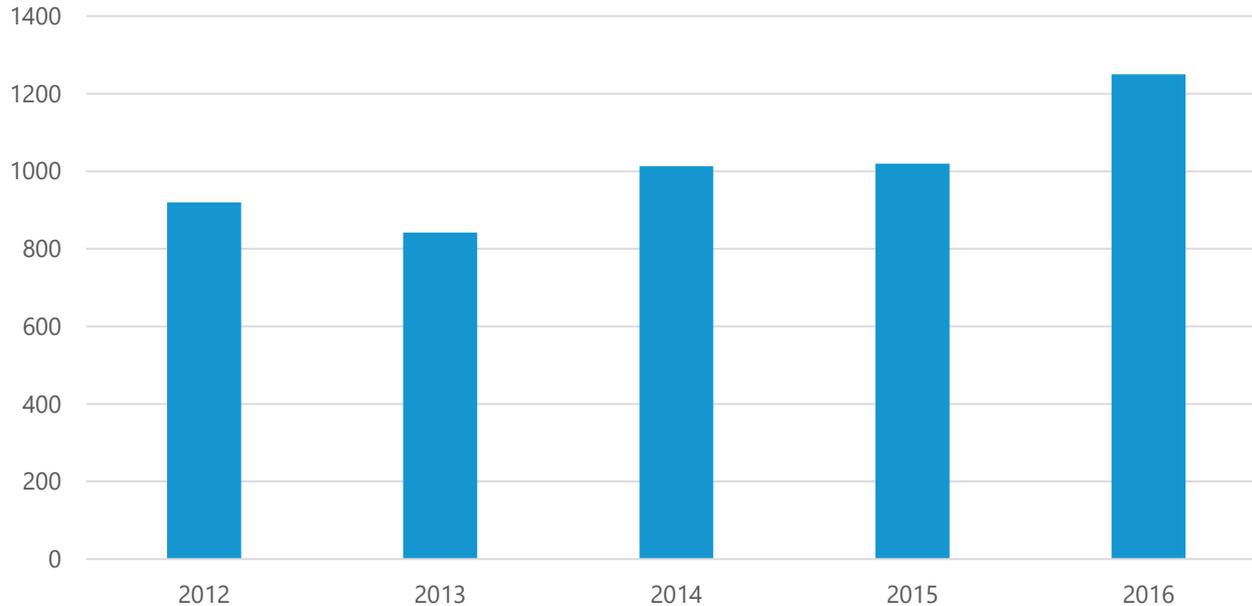
Plant Patent Corps – AU 1661

- 1 Director
- 1 Supervisory Patent Examiner
- 7 Patent Examiners (4 Hotelers)

Plant Patent Filings 2012-16



Plant Patent Issuances 2012-16



PROPOSED LEGISLATION

Proposed Legislation

- The Plant Patent Act currently covers asexually propagated plants
- The Plant Variety Protection Act covers sexually propagated plant varieties (Breeder's Right Certificate)
 - Has certain exceptions, but also certain advantageous concepts

Questions and Comments

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